With regard to the Varkalai tunnel which was constructed years ago, I made enquiries with one of the old Engineers and I was told that it was done by Italian Engineers. At that time all the modern plant and machinery were not available and the local labourers that had occasion to handle them at that time are not alive now.

With regard to the contracts for materials and machinery of a special nature it may not be possible to get them done locally, but, wherever possible, for instance, towers for transmission lines etc., every consideration will be taken into account with a view to give employment to as large a number of local labour as possible.

The motion was by leave withdrawn.

The question that a sum of Rs. 14,82,717 be granted under Demand XI—Public Works—Electrical Department—was then put and carried.

DEMAND XII—ADMINISTRATION OF JUSTICE.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I move for a grant of Rs. 10,49,355 under Demand XII—Administration of Justice.

Motion No. 326.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Sir, my motion is to the following effect:

To reduce the allotment of Rs. 37,170 for establishment by Rs. 10.

The object of my motion is to press on the attention of Government the necessity of taking prompt measures to combat law's delays. Sir, the question of law's delays has become a sort of perpetual complaint in Travancore. Probably it is not confined to Travancore, as is seen from its wide range and compass on account of its prevalence in British India and the British Isles also. In Great Britain, recently there has been agitation not only to expedite the administration of justice but also to cheapen it. Some measures have been adopted by the Courts of Justice in England by introducing what is known as 'the new procedure lists' for the trial of cases. In British India also, a committee was appointed some years ago to go into the question and certain measures were suggested and carried out. It is not necessary to refer to other places where similar agitation was afoot. In Travancore, there was considerable agitation and a Committee was appointed with a Commissioner as its head, who submitted a report as to the causes of law's delays and how to remove them. It is some time since the report was submitted to Government. The authorities, I thought, were contented with it, but as yet nothing seems to go forward. The Commissioner divided the causes of delay into two

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

main heads; first, delay caused by the nature of the laws themselves; and secondly delay caused in the administration of the existing laws. The first branch, that is to say, the modification of the current statutory law is certainly a matter which does not require much consultation with others and the Law Officers of Government should have been in a position to tell the Government of the need of removing the statutory clogs. Had their opinion been obtained, it was open to the Government on the legislative side to introduce necessary amendments into the current statutes or to enact new statutes in the interests of speedy justice. I do not know whether any step has been taken in that direction by anybody interested in the subject. As for the shortcomings in the application of the laws now in force, no doubt, the matter would require examination to understand what is amiss. The Law's Delays Officer has, however, made various recommendations in that direction also. One such recommendation is for the establishment of additional courts for working out the arrears. Another is for a suitable re-adjustment of the existing courts so that, by a reduction in the range and trouble, justice may be expedited. There are various other recommendations with which it is not necessary to deal at this stage. What I am placing before the House now is the indifference of Government in not bestowing anything like serious consideration on the Commissioner's report. A distribution of territorial jurisdiction, if necessary, is not a very difficult problem. In certain instances, the shifting of one court from one centre to another is quite easy and can very conveniently be carried out. In certain centres, new courts may have to be provided. Anyhow it is an urgent question and cannot be put off. To allow things as they are would mean an accumulation of arrears which would require Herculean efforts to clear off. The causes which have been dealt with by the Law's Delays Commissioner seem to call for further consideration as regards the personnel of the courts and the efficiency of the Bar and the Bench. In the matter of the personnel of the courts, the Government should try to ascertain whether sufficient and searching attention is being paid at the periodical inspections by superior courts of the work of the subordinate courts. Year after year some of the courts are being inspected by the learned Judges of the High Court. To what is this inspection directed? Does such inspection take into account the nature and quantity of the work turned out by the subordinate Judicial Officers? Or is it confined only to an examination of the records of the courts irrespective of judicial work turned out by the courts? What we see is that, in spite of the periodical inspections conducted by learned judges, no subordinate judicial officer has yet been reported to be above or below the normal level of efficiency. The subordinates would seem all alike, as if they are like peas. From that, it may be inferred that the so-called inspection is only a routine inspection of the registers preserved in the courts. I am submitting, Sir, to find out the efficient officer and distinguish him from the sort of officer one does not wish to encourage, the scope of in-

LIBRARY ARCHIVES Kerala Legislative Assembly

spection should be widened and made more penetrative. Such an inspection alone will lead to an elimination of the inefficient officers from those up to the mark. That is one aspect.

Then as to the methods of recruitment, a percentage has now been recommended by the Law's Delays Commissioner, from the Bar direct. That percentage may be immediately brought into force, seeing that the current system, with a preponderance in favour of clerks, has not been working satisfactorily. I think nothing, however, has been done in that direction.

Thirdly, with respect of the efficiency of the Bar, the enrolment of a pleader in a court of law demands now only one pre-requisite, namely, that he should have passed some specified law examinations, like the pleadership or the B. L. examination. In my humble opinion, the bare success in the examination, however creditable in itself, is not a sufficient equipment for a legal practitioner. Some further training is needed to make him understand the application of the law. The State as a whole has a right to be served by the most efficient Bar. Let there be no room for the tumblings of tiros and raw recruits. The pleadership examination has now been suspended. So there is no risk of further recruitment to the Bar from that quarter. No doubt the successful pleadership candidates already enrolled occasionally contend that they are superior to the B. L's. I am not saying anything about the merits of that contention. But the graduate-in-law seeking admission to the Bar requires further training. That is a proposition which I am prepared to endorse. In short, the efficiency of the Bar has to be kept in view so that the administration of justice may be carried on as speedly as possible. In the case of persons who have had sufficient practice at the Bar, there is another factor to be taken into consideration. In England, as I said, the cry at present is to cheapen justice and to expedite its work. They seem to deal with the question as if these two aspects are independent and separate in the administration of law. Whatever that be as regards England, here in Travancore the one aspect is not without its repercussion upon the other. Much of the applications for adjournments may be traceable to the inability of the litigants to satisfy the court or the Vakil when payment is demanded. So much so, a case may be seen to be dragged from point to point upon a number of petitions for adjournment on grounds other than the real ones that is to say such as the plea of illness and other inconveniences. These pleas are put forward with a view generally that the Vakil is paid all his dues before the case closes.

MR. T. K. VELU PILLAI (*Trivandrum-Urban*): Is not the illness mentioned by the Vakils true?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): In some cases they are true. I do not know of all cases, but I know enough of economic depression in disguise as illness and inconvenience.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): What about the adjournments occasioned by the absence of the Judges themselves?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): In their case, they take leave because they are entitled to it. It is inevitable. I am submitting then that the client finds much difficulty to furnish funds at particular stages of the case, say the examination of witnesses or some such necessary step for the progress of the case. Then also we come across applications for adjournments. Therefore it may be gathered that the economic condition of the ordinary litigant is such that he finds it difficult to cope with the financial demands of a law-suit as it is carried on to-day. As a result we see there is much protraction in litigation. You have to cheapen the administration of law in Travancore also. Unless that is done, it is impossible to expedite the course of justice. The Law's Delays Officer has not stressed that aspect of the question. There must be a thorough revision of the provisions as to the payment of process-fees, court fees, etc., so that justice may be brought within the reach of people of ordinary means, conformably to their present economic capacity. These are some of the points that deserve consideration in connection with this question. Some of them may be attempted almost immediately. Some of them may require time for consideration, At any rate, it is a long-standing cry about a pernicious evil which Government cannot afford to perpetuate any further. If there is necessity for the appointment of additional officers as the Law's Delays Officer recommends, by all means let them be appointed and the arrears cleared off. If, on the other hand, it is not necessary to fix on any particular locality as the centre where there is a chronic tendency for the accumulation of arrears, we may resort to what is known as circuiting courts with Judges going from place to place for working out arrears. Some such method will have to be devised and introduced as early as possible so that this question of law's delays is combated successfully, once for all. As it is, there is the spectacle of cases startted 18 years ago, still pending in courts of original jurisdiction with little chance of being disposed of in the near future.

PRESIDENT: Your time is up.

MR. S. J. NAIR (*Nedumangad*): I support the motion so ably moved by Mr. P. K. Narayana Pillai. Law's delays in Travancore have become a notorious fact. In order to combat the evil, it is essential that criminal sessions be separated from the ordinary civil jurisdiction of the District Courts, and circuiting criminal sessions courts may be established,

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I rise to a point of order. That is not within the scope of this motion. This motion relates to the administration of civil justice.

PRESIDENT: He is only referring to that in the course of the speech.

MR. S. J. NAIR (*Nedumangad*): So, by appointing two separate circuiting criminal sessions courts, one for South Travancore and another for North, I am sure much of the congestion that now remains in the

LIBRARY ARCHIVES Kerala Legislative Assembly

District Courts could be overcome. Wherever there is necessity for permanent Munsiff's Court, that also must be looked into. Sir, may I be permitted to refer about the necessity for making the Nedumangad Munsiff's Court permanent there? (*Laughter.*)

PRESIDENT: You can refer to that.

MR. S. J. NAIR (*Nedumangad*): In the case of Nedumangad Munsiff's Court, there is more than sufficient work and it has to be made permanent there. Such temporary courts, if they have more than sufficient work, should be made permanent so much so much of the difficulty in law's delays could be cured. I know something of the condition of Central Travancore also. The opening of a District Court in Mavelikara would very much reduce the law's delays appertaining to that portion of Travancore. By this, two District Courts one from Kottayam and one from Alleppey, could be abolished.

The most important thing the authorities have to look into is about the recruitment in the Judicial Department. As matters stand at present, recruitment is not at all satisfactory. Some inexperienced Vakils who have absolutely no case and practice in the Bar are recruited as Judicial Officers. That system ought to be put a stop to. Pleaders of standing and having good practice ought to be recruited as Munsiffs and Magistrates and they ought to be permitted to practise before District Courts and High Court. In regard to recruitment of Judicial Officers, I say 90 per cent. ought to be recruited from the Bar and efficiency mainly and not communal representation has to be considered. In departments other than the Judiciary, the principle of communal representation may be resorted to if required. But so far as appointments in the Judicial Department are concerned, it is highly essential in the interests of administration of justice the claims of efficient men alone, to whichever caste they may belong, are to be taken into account. Such recruitments must also be from amongst the members of the Bar who have good practice and standing in the Bar.

The rate of court fees obtaining now has to be reduced to a great extent. At the same time, Vakil's fee must be enhanced. Though quite out of place, all the same I have to say that law's delays are being encouraged by the Vakils also as a result of non-receipt of proper remuneration for the laborious work they have to do. Parties also are not in a position to meet ths demands of the Vakils. If the Court fee is reduced and the Vakil fee enhanced, I hope much of the trouble in the courts could be overcome. With these words, I heartily support the motion.

MR. K. M. KRISHNAN (*Ambalapuzha II*): സർ, ഞാൻ ഈ ഉപക്ഷേപത്തെ അനുകൂലിക്കുന്നു. കീഴ്ക്കോടതികളിൽ കേസ വിസ്തരിച്ചു തീരുമാനിക്കുന്നതിനു എടുക്കുന്ന സമയത്തെ ചുരുക്കുന്നതിനെ സംബന്ധിച്ചു ഒന്നു രണ്ടു സംഗതികൾ പറയണമെന്നുള്ളതാണ് എന്റെ ഉദ്ദേശം. ഇന്നു കോടതികളിൽ ഓരോ മുൻസിഫും മാസത്തിൽ ഇത്ര കേസ്സുകൾ തീർക്കണമെന്നു ഒരു വ്യവസ്ഥയുണ്ട്. അതുകൊണ്ടു കഴിയുന്നതും വലിയ

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. M. Krishnan.]

തക്കമില്ലാത്തതും വിഷമം കുറഞ്ഞതുമായ ര ാ കേസ്സുകാം തീക്കുന്നതിനാണ് മുൻസിഫന്മാർ ശ്രമിക്കുന്നതു്. വളരെ തക്കമുള്ളതും വസ്തു സംബന്ധിച്ചതുമായ കേസ്സുകാം തീരുമാനിക്കാൻ ശ്രമിക്കുന്നില്ല. കാരണം അങ്ങിനെയുള്ള കേസ്സുകാം തീക്കാൻ ശ്രമിച്ചാൽ മിനിമമായ ര ാ കേസ്സുകാം തീക്കാൻ സാധിക്കയില്ല എന്നുള്ളതാണ്. അതിനാൽ കീഴ് കോടതികളിൽ മാസത്തിൽ ഇത്ര കേസ്സുകാം തീക്കണമെന്നുള്ള വ്യവസ്ഥ ഭേദപ്പെടുത്തി അങ്ങിൽ ഇത്ര കേസ്സുകാം തീക്കണമെന്ന വച്ചാൽ തക്കമുള്ള കേസ്സുകളെ മിനം പ്രതി വിചാരണവച്ചു തീക്കുന്നതിനു സൌകര്യമുണ്ടാകയും ശ്രുഷ്കാന്തി കാണിക്കുകയും ചെയ്യും.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): അങ്ങിൽ ഇത്ര കേസ്സുകാം തീരുമാനിക്കണമെന്ന വച്ചാൽ തന്നെയും തക്കമില്ലാത്ത കേസ്സുകാം തീരുമാനിച്ചു ആ നിശ്ചയിക്കുന്ന എണ്ണം തികയ്ക്കുകയില്ലേ?

MR. K. M. KRISHNAN (*Ambalapuzha II*): അതിൽ ഒരു സംഗതി കൂടി എനിക്കു പറയുവാനുണ്ടു്. പരിശോധിക്കാൻ പോകുന്ന ഉദ്യോഗസ്ഥൻ കേസ്സുകളുടെ എണ്ണം മാത്രം നോക്കിയാൽപോരെന്നും, നേരെ മറിച്ചു ഒരു കേസ്സു തീരുമാനിക്കുന്നതിനു എത്രമാത്രം ശ്രമം വേണ്ടിവന്നിട്ടുണ്ടെന്നും, ജഡ്ജിമെന്റു എഴുതുന്നതിനു എത്ര റിക്കാർഡുകാം പരിശോധിക്കേണ്ടിവന്നിട്ടുണ്ടെന്നും, കൂടി നോക്കണമെന്ന ഈ ഉപക്ഷേപം ഇവിടെ അവതരിപ്പിച്ച മാന്യൻ തന്നെ പറയുകയുണ്ടായി. അങ്ങിനെ പരിശോധിച്ചാൽ ശരിയായ തക്കമുള്ള കേസ്സുകാം എത്രയെണ്ണം തീരുമാനിച്ചു എന്നു കണ്ടു പിടിക്കാൻ കഴിയും. അല്ലാതെ തക്കമില്ലാത്തതും നിസ്സാരമായ തക്കമുള്ളതുമായ കേസ്സുകാം മാത്രം തീക്കുന്നതിനു അനുവദിക്കരുതു്

MR. R. RAMAN PILLAI (*Changanachery* cum *Peermade II*): തക്കമില്ലാത്ത കേസ്സുകളായിരുന്നാലും അവ തീരുമാനിക്കാതെ നീട്ടിക്കൊണ്ടു പോകണമെന്നാണോ മെമ്പറുടെ അഭിപ്രായം?

MR. K. M. KRISHNAN (*Ambalapuzha II*): നീട്ടിക്കൊണ്ടു പോകണമെന്നു ഞാൻ അർത്ഥമാക്കുന്നില്ല. അങ്ങിനെയുള്ള കേസ്സുകളും തീർക്കേണ്ടതാണു്. അതിനാൽ മാസത്തിൽ ഇത്ര കേസ്സു തീക്കണമെന്നുവച്ചിട്ടുള്ളതു് അങ്ങിൽ ഇത്ര കേസ്സുകാം തീക്കണമെന്ന അനുകൂലമാണു്.

വിധി നടത്തിലും തക്കുറവും ധാരാളം ഉള്ള കേസ്സുകാം ഉണ്ടാകുന്നുണ്ടു്; അവയെ തക്കമുള്ള കേസ്സുകളുടെ കൂട്ടത്തിൽ ഗണിക്കുന്നില്ല. വി

LIBRARY ARCHIVES Kerala Legislative Assembly

ധി നടത്തിലും സാക്ഷികളെ വിസ്തരിക്കുക, റിക്കാർഡുകൾ പരിശോധിക്കുക മുതലായവ നടത്തേണ്ടതായിട്ടു വരുന്നുണ്ട്. പ്രതിമാസം ഒരു മുൻസിഫ് തീർക്കേണ്ട കേസ്സുകളുടെ ക്രട്ടത്തിൽ ഈ വക കേസ്സുകളെ ചേർക്കാത്തതുകൊണ്ടു വിധി നടത്തു കേസ്സുകൾ തീർക്കാൻ മുൻസിഫന്മാർ ശ്രദ്ധ കാണിക്കുന്നില്ല. തന്നിമിത്തം അങ്ങിനെയുള്ള കേസ്സുകൾ കുടിശ്ശിഖയായി ധാരാളം കിടക്കുന്നുണ്ട്. അതിനാൽ വിധി നടത്തിൽ തർക്കമുള്ള കേസ്സുകളുംകൂടി ഈ ക്രട്ടത്തിൽ ചേർക്കേണ്ടതാണു്. വളരെ കാലത്തെ പഴക്കമുള്ള വിധിനടത്തു കേസ്സുകൾ ഓരോ കോടതികളിലും ധാരാളം കിടപ്പുണ്ടു്.

ഇനി എനിക്കു പറയാനുള്ളതു കേസു നീട്ടിക്കൊണ്ടുപോകുന്നതിനു കക്ഷികൾ ഉപയോഗിക്കുന്ന ചില സൌകര്യത്തെ സംബന്ധിച്ചാണു ഇപ്പോൾ ചില സന്ദർഭങ്ങളിൽ കേസു നീട്ടിക്കൊണ്ടുപോകണമെങ്കിൽ അതിലേക്കു വേണ്ട ചില സൌകര്യമുണ്ടു്. പലവക ഹർജിയിന്മേൽ ഉണ്ടാകുന്ന ഉത്തരവിന്മേൽ ഒരപ്പീൽകൊടുത്താൽ ആ കേസു എത്രവേണമെങ്കിലും നീട്ടിക്കൊണ്ടുപോകാം. അതിനാൽ പലവക ഹർജിയിന്മേലുള്ള ഉത്തരവിന്മേൽ അപ്പീൽ കൊടുത്തുകഴിഞ്ഞാൽ അതു മേൽകോടതിയിൽനിന്നും വേഗം തീരുമാനിച്ചു കീഴ കോടതിയിൽ അയയ്ക്കുന്നതായാൽ ന്യൂനതപരിഹരിക്കാവുന്നതാണു. കുടിശിഖ അത്രയധികം വരികയുമില്ല.

പ്രാസസ് നടത്തുന്നവരുടെ അലസതകൊണ്ടും കേസുകൾ കുടിശിഖയായി വരുന്നുണ്ടു്. അന്യായവിചാരണക്കുള്ള ഒരു സമൻസ് കൊടുത്തുകഴിഞ്ഞാൽ ശിപായി അതാദ്യം കൊണ്ടുപോകുന്നതു വാദിയുടെ അടുത്താണു്. വാദിവേണം പ്രതിയെ കാണിച്ചുകൊടുക്കാൻ. എന്നാൽ ഇയാൾ വാദിയുടെ അടുക്കൽതന്നെ പോകുന്നതിൽ ഒരു രഹസ്യമുണ്ടു്. അതു സാധിച്ചില്ലെങ്കിൽ എന്തെങ്കിലും കാരണം പറഞ്ഞു സമൻസുമടക്കും. ഇങ്ങനെ അനേകംപ്രാവശ്യം മടക്കുന്നതു ഒരു സാധാരണ പതിവാണു്. ഇങ്ങനെയുള്ള ഒരു പതിവുകൊണ്ടു വിധിനടത്തുകേസുകൾക്കാണു് വലിയ കാലതാമസം നേരിടുന്നതു്. കോടതിയുടെ പരാസ്യം കുഴിഞ്ഞ അനുവാദനോട്ടീസു ശിപായിക്കു ശരിയായ പ്രതിഫലം കൊടുത്തില്ലെങ്കിൽ അയാൾ മടക്കിക്കളയും. തന്നിമിത്തം കേസു തീരാൻ പിന്നെയും നോട്ടീസുകൾ അയക്കേണ്ടിവരുന്നു. അതിനാൽ ഈ വകസംഗതികളിൽ വേണ്ട നിഷ്കർഷകൾ ചെയ്താൽ ഇങ്ങനെയുള്ള താമസം പരിഹരിക്കാവുന്നതാണു്.

LIBRARY ARCHIVES Kerala Legislative Assembly

ജില്ലാക്കോടതിയിലും ഹൈക്കോടതിയിലുമുള്ളതുപോലെ മുൻസീഫന്മാക്കും ഷാർട്ട്ഹാൻറുടൈപ്പിസ്റ്റിനെ കൊടുത്താൽ ജഡ്ജിമെൻറെഴുതുന്നതിലുള്ള താമസം പരിഹരിക്കാൻ കഴിയും. കൊച്ചിയിൽ ഇതനുവദിച്ചിട്ടുണ്ട്.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): ഷാർട്ടഹാൻറ് ടൈപ്പിസ്റ്റിൻെറ ആവശ്യം എന്താണെന്നു പറയാമോ?

MR. K. M. KRISHNAN (*Ambalapuzha II*): ജഡ്ജിമെൻറ് എഴുതുന്നതിൽതാമസം വരാതിരിക്കാനാണ്.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): ജഡ്ജിമെൻറ് എഴുതാൻ മൂന്നുമാസം താമസമുള്ള ഒരാളിനു ഷാർട്ടഹാൻറ് ടൈപ്പിസ്റ്റിനെ കൊടുത്തതുകൊണ്ടു വല്ല വിശേഷവുമുണ്ടോ?

MR. K. M. KRISHNAN (*Ambalapuzha II*): ഹീയറിങ്ങുകഴിഞ്ഞു മൂന്നുമാസംവരെ ചിലർ എടുക്കുന്നുണ്ടെങ്കിലും ജഡ്ജിമെൻറ് എഴുതാനായി അതുംസമയം എടുക്കുന്നുണ്ടെന്നു തോന്നുന്നില്ല.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): ഒരു കേസുകേട്ടുകഴിഞ്ഞാൽ ഉടനെ ജഡ്ജിമെൻറ് പറയാൻ സാധിക്കുന്ന ജഡ്ജിമാരുണ്ടോ?

MR. K. M. KRISHNAN (*Ambalapuzha II*): ഹീയറിങ്ങുകഴിഞ്ഞ ഉടനെ വിധി എഴുതണമെന്നുണ്ടെങ്കിലും അങ്ങനെ ചെയ്യാതെ നീട്ടിക്കൊണ്ടുപോകുന്നവരും ഉടനെ ജഡ്ജിമെൻറ് എഴുതുന്നവരുണ്ട്.

MR A. THANU PILLAI (*Trivandrum-Rural*): ഷാർട്ടഹാൻറ് ടൈപ്പിസ്റ്റിനെ ഉപയോഗപ്പെടുത്താൻ ശേഷിയില്ലാത്ത മുൻസീഫന്മാരാണധികമുള്ളതെന്നു മെമ്പക്കറിയാമോ?

MR. K. M. KRISHNAN (*Ambalapuzha II*): അങ്ങനെയുള്ള മുൻസീഫന്മാർ ഉണ്ടെന്നു ഞാൻ വിചാരിക്കുന്നില്ല.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): ഹൈക്കോടതിയിൽ ഷാർട്ടഹാൻറ് ടൈപ്പിസ്റ്റ് ഉണ്ടോഎന്നറിയാമോ?

MR. K. M. KRISHNAN (*Ambalapuzha II*): ഉണ്ടെന്നാണു തോന്നുന്നതു നിശ്ചയമില്ല.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Sir, I do not think any argument is necessary to convince the Government that there is much law's delay in our country, because Government are already convinced of it and therefore

LIBRARY ARCHIVES Kerala Legislative Assembly

they appointed a committee to enquire into and report on the matter, and that Committee has submitted its Report. The High Court also have made their recommendations on the report and the matter, I think, is now before Government. It is, therefore, fruitless now to dwell upon the various causes of delay and to point out remedies. Further, however much time we may spend in discussing the causes of the delay and the remedies therefor, we cannot be exhaustive. The proper thing, it appears to me, therefore is to invite the early attention of Government to the recommendations of the High Court in regard to this matter.

As far as I know, the recommendations may be classed under three heads, namely, the starting of new Courts for the purpose of clearing old arrears, the simplification of the present cumbrous procedure and the introduction of certain legislative changes in order to lighten the file of the High Court. I do not know what action Government have taken on these recommendations. The Report of the Law's Delays Commissioner has been before Government for the last two years, and the public are not yet aware of any action having been taken by Government in regard to any of the recommendations

MR. A. THANU PILLAI (*Trivandrum—Rural*): Is the member in a position to tell the House, when the High Court sent up their recommendations ?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): As far as I know, the High Court sent up their recommendation more than a year ago. It appears to me, Sir, having read the Report myself, that, in so far as the simplification of the procedure in Courts and the amendment to the Civil Courts Regulation are concerned, the Head Sirkar Vakil or the Law Member must be specially deputed to attend to these matters. Unless that is done, nothing serious can be expected in the near future. The High Court have got their own judicial work, and that is sufficient to take up all their time. It will not be possible for them, so far as I can see, to devote any time to any of these matters. And, as far as I know, the Law Member has only very light work and even that he now shares with the Political Secretary neither of whom is therefore over-burdened with work.

MR. A. THANU PILLAI (*Trivandrum—Rural*): In view of what has been stated here by more than one member who, till recently, was a Judge of the High Court, I am really at a loss to understand the attitude of Government in making the following statement in their proceedings dated 17th February 1933, regarding the Administration Report relating to Civil Justice :—

> "Government are constrained to observe that the work of the Munsiffs has been deteriorating, and they look to the High Court to take the necessary action with a view to improve the situation."

In dealing with the work of the District Judges, they say—

> "Government regret that they are not able to record satisfaction of the work of the District and Second Judges."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. A. Thanu Pillai.

Now, in dealing with the work of the High Court, evidently out of courtesy to the Chief Justice and other Judges, they refrain from making any such remark, although the figures relating to the work of the High Court also, would justify a similar remark. Now, Sir, having received the recommendations of the High Court more than a year ago, in relation to the Law's Delays Commissioner's Report, what do the Government mean by making these observations, in their order dated the 17th February 1933, calling upon the High Court to rectify matters? Are not the Government convinced that the High Court feel that they are not in a position to improve the situation? I think that, if one thing is clear relating to the administration of justice in this State, it is that, under existing circumstances, they are not in a position to do it. Government ought to take action on the Report of the Law's Delays Commissioner and the recommendations of the High Court relating thereto and make an earnest attempt to remove the great inconvenience now suffered by the litigant public. From the observations made by Government, it would appear that the difficulty, so far as they are able to see, is on the part of the officers concerned and not so much on the system. If that is so, Sir, Government ought to pay better attention to the recruitment of judicial officers. I think this is a very sad commentary on the way in which judicial officers are recruited for service in the Judicial Department. Government ought to take a comprehensive view of the whole question and themselves pay more attention to the question and see that the defects are removed, instead of drawing the attention of the High Court, year after year, to the defective work done by the High Court and their subordinates.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*) : സർ, എന്റെമാന്യസ്നേഹിതൻ ഈ സഭയുടെ ശ്രദ്ധക്കു വിഷയീഭവിച്ചിട്ടുള്ള ഒരു സംഗതിയെപ്പറ്റിമാത്രം രണ്ടുവാക്കു പറയണമെന്നേ ഞാൻ ഉദ്ദേശിക്കുന്നുള്ളു. കേസുകളുടേ തീരുമാനത്തിൽ ക്രമതൽ താമസം നേരിടുന്നതു ഡിസ്ട്രിക്ട് കോടതികളിൽ കാണിക്കുന്ന അശ്രദ്ധകൊണ്ടാണെന്നു അദ്ദേഹം ഇവിടെ ഉദ്ധരിച്ച വാചകങ്ങളിൽനിന്നു വ്യക്തമാകുന്നുണ്ട്. ഇതിനുകാരണം സെക്കൻറ് ജഡ്ജിമാരുടെ നിയമനത്തിൽവരുന്ന ദൃഷ്യമാണെന്നാണ് എന്റെ അഭിപ്രായം. രണ്ടാം ജഡ്ജിമാരെ നിയമിക്കുന്ന സംഗതിയിൽ ഗവണ്മെൻറു ഒരു സ്ഥിരമായ നയം സ്വീകരിച്ചു കാണുന്നില്ല. വ്യക്തിപരമായ കാര്യങ്ങൾ വരുമ്പോൾ താല്ക്കാലികമായ ഓരോ തത്വങ്ങൾ സ്വീകരിക്കയാണു ഗവണ്മെൻറു ചെയ്തുവരുന്നത്. ർ ഠ വയസ്സിനുതാഴെയുള്ള ആളായിരിക്കണം രണ്ടാംജഡ്ജിയായി നിയമിക്കപ്പെടേണ്ടതെന്നാണു ഇപ്പോഴത്തെ വ്യവസ്ഥ. ന-ള വയസ്സുനു താഴെയുള്ളവരെ മുൻസീഫ് ആയി നിയമിക്കണമെന്നു വ്യവസ്ഥയിരിക്കുന്നിടത്തോളംകാ

LIBRARY ARCHIVES Kerala Legislative Assembly

ലം ൪൦ വയസ്സിനുതാഴെയുള്ള ആളേയായിരിക്കണം രണ്ടാം ജഡ്ജിയാ യി നിയമിക്കപ്പെടേണ്ടതെന്നുള്ള വ്യവസ്ഥ ഒട്ടുംതന്നെ ശരിയായിട്ടുള്ള തല്ലെന്നാണ് എന്റെ അഭിപ്രായം. നിയമസംബന്ധമായും മറ്റു ലൌകീകകാര്യങ്ങളിലും ശരിയായ ജ്ഞാനം സിദ്ധിക്കുന്നതിനു പ്രായ ത്വും ശക്തിയും ഉണ്ടായിട്ടുള്ള ആളുകളെമാത്രമെ രണ്ടാംജഡ്ജിയായിനി യമിക്കാവൂ. ഈ സ്ഥിതിക്കു ൪൦ വയസ്സ് കുറച്ചു വച്ചിരിക്കുന്നതു ശ രിയല്ല. എന്നാൽ മിനിമം ൪൦ വയസ്സു എന്നവയ്ക്കുന്നതുകൊണ്ടു ത രക്കേടില്ല. അതിനാൽ ഇപ്പോൾ ഗവൺമെന്റു തുടർന്നുവരുന്ന ഈ ന യം മാറേണ്ടതാണ്.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): Sir, speaking on behalf of the mercantile community, it has been a long-standing grievance with them that commercial suits take a long time for disposal. The Banking Enquiry Committee have reported upon this matter in paragraph 205 of their Report. They say:

"205. Several witnesses complained to us that the delay in Civil Courts has become 'scandalous' and has very badly affected trade and banking. As a commission has been appointed to enquire into the delays, we do not wish to go into the details of the question of Laws' Delays but a few suggestions strictly relevant to our enquiry seem necessary.

"That speedy disposal of commercial suits, especially suits by bankers, is absolutely necessary cannot be questioned. A bank is the custodian of public money. If its suits are delayed and its money locked up, the result would be that the public suffer, especially the business men; and if there are several such suits in respect of a particular bank and if large amounts are locked up without any immediate chance of recovery, the bank will surely collapse."

They put forward two suggestions. One was that Judges acquainted with commercial practice must be appointed; and they instance what is happening in England. This is what they say:

"In England, the Queen's Bench Division select Judges to preside over commercial suits. Special list of causes is prepared and the technicalities of evidence and pleading are dispensed with. The results, we are told, are very wholesome and complicated cases are disposed of in three months or less."

They further advocate that the summary procedure ought to be adopted in the case of commercial suits and in suits relating to negotiable instruments. The Law's Delays Commissioner, subsequently was not prepared to accept these suggestions of the Banking Enquiry Committee. The Law's Delays Commissioner totally ignored the suggestion relating to the appointment of Judges acquainted with commercial practice; and, as regards the summary procedure, this is what he says in paragraph 233 of his Report:—

'The system of summary procedure has not been introduced here even in respect of negotiable instruments. The general opinion is that it is not suited to the conditions in Travancore. I am also inclined to this view. The suggestion, therefore, need not be given effect to at present."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. Chidambaram Pillai.]

My submission, Sir, is that all banking transactions are based upon negotiable instruments. I would respectfully suggest that the summary procedure followed in British India may be adopted here also.

One word, Sir, in regard to recruitment. Professor Sidgwick, the great English Jurist, says :

> "Judges are to be professional experts, since it can hardly be doubted that, to obtain a knowledge and skill required for the consistent and accurate determination of legal rights and duties in particular cases continual professional practice as well as systematic preparatory study is generally necessary in an advanced stage of civilization, in most, if not all, departments of administration of law.
>
> "In the United Kindgom, or for the matter of that, in every part of the British Empire, whether in the Dominions or the Colonies, self-governing or Crown, there is no other recruiting ground for Judges of Superior Courts than the Bar."

Therefore, Sir, recruitment of Judges, especially for the superior Courts, must always be from the Bar.

Then, one word, Sir, as, regards patronage in these appointments.

The Decentralization Commission years ago pointed out that the power of appointment must be taken away from all the High Courts in India not only with regard to the Subordinate Judges but also with Munsiffs because their view was that the High Court should not be fettered by questions of patronage. The power must lie within the power of Government. This is a matter, I submit, which the Government must anxiously consider because it would be better in the interests of administration of justice that Law Courts have nothing to do with the matter of appointments.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I move that the question be now put.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The question of Law's Delays has been engaging the attention of Government for a very long time and it must be in the knowledge of this House that it is on the motion of the Council that a committee was appointed to enquire into this matter. The Commissioner appointed for the purpose was a very experienced Judge of the High Court, a gentleman held in high esteem for his judgment and discretion, and he has submitted a report which is not only valuable but also naturally very lengthy. Because of its bulk, it naturally requires some time to deal with the various recommendations in these matters.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): How long is it since the report was made ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I think it was sent up in Thulam 1107.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): About two years ago ?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I know when the Government called upon the High Court to submit its report?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have been saying that the report was sent by the end of 1107.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): And received by the High Court 6 months after. May I know why this transaction from one building to the other took six months?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not know whether it is really so.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): On page 41 of the report of the Judicial administration it is said that the Commissioner finished his report and a copy was sent to the High court which was received there on 30-9-107.

Why was this long delay caused?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Probably it was in the press for a long time.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): What happened to it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It was sent by the Commissioner in Thulam 1107. Probably it took some time for printing and it was sent to the High Court immediately the copies became available. The High Court submitted its report to Government in November, about 7 months ago. The High Court had their normal duties and probably it took some time for them to consider and reach conclusions.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): Has any action been taken on the recommendations till now?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): After tabulating them it was found that there were many recommendations which the High Court themselves could carry out without any specific orders of Government or amendments to the law. Very recently, within a month, the High Court has been asked whether it could not carry out those recommendations which did not require particular sanction of Government or any amendments to the law or any expenditure of money. Just now I have been informed by the High Court of the action they have taken which is likely to reduce or put an end to law's delays. That is a communication which I have got today. I ascertained the matter from the High Court after receiving notice of this motion. Of course there has been some delay and the House will realise that it is inevitable and several attempts have been made to take emergent steps on the recommendations of the Committee.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): What about the other matters which require Government sanction.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Those matters have been referred to the Law Officers and they have been asked to express their opinion on the matter. Reference was made here that the Political Secretary assists the Law Member in his work. But I may say that he has nothing to do with the Law Member's Department or the Law Officers' Department. The Bills and other things are entirely attended to by the Law Officers assisted by his assistant and staff.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I know why Government took so much time to refer the matter to the Law Member?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The recommendations had to be tabulated and Government had to see what things could be done by the High Court itself without the sanction of Government or any amendments to the law.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I know why the Government delayed so much in sending the recommendations to the High Court to expedite those matters for which Government sanction was not necessary? It was more than one and a half years.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) When the Government examined and scrutinized the recommendations of the High Court, they found various things which could be done by the High Court themselves such as the supervision of the subordinate courts' work, the posting of cases from day to day, examining the work of each Munsiff properly and such other things. I wanted to ascertain whether the High Court had taken action on those things or they are still thinking that Government sanction is necessary. Now I am informed that they are taking action on such of those recommendations as do not require Government sanction.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Have the Government or the High Court till now put into effect any one of the recommendations?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, take for instance the recent recruitment rules. In recruitment of judges, they have laid down that efficiency should be the main consideration.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Is that not the only thing on which they have acted upon?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, take for instance the introduction of additional Panchayat Courts. One of the recommendations of the Law's Delays Commissioner is the establishment of Panchayat Courts wherever they could be done. Government have very recently established a few such Panchayat Courts.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. S. J. NAIR (*Nedumangad*): What about recruitment?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Take also the case of Munsiff-Magistrate's courts converted into full time Munsiff's courts, Government are again thinking of establishing a District Court at Mavelikara. This matter requires additional funds. Therefore Government are thinking of transferring one of the Second Judges from Quilon or some other place to Mavelikara. The territorial jurisdiction of some other courts is also under the consideration of Government.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): By what time will the Mavelikara Court come into existence?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Probably that question will be raised during the discussion on the next motion.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): We may not reach the other motion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That motion is not far off.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Is there any possibility of carrying out into effect the recommendations at least in 1109?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot prophesy. But it is being viewed very favourably. It may require budget sanction and all those usual things. But I may say that the idea of Government is to have a District Court at Mavelikara and they are now on the look out for a building.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): If the difficulty of obtaining a building is overcome by the co-operation of the people there, would Government see that the recommendation is brought into effect without delay?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There are certain other formalities to be gone through.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Will anything be done before the next election?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Possibly.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Are we to understand that Government should accept all the recommendations of the Law's Delays Commission?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In that case is there not a likelihood of the idea of a District Court at Mavelikara being abandoned?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is why I said Government are viewing it favourably.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Am I to understand that the only difficulty is to find out a building?

MR. KAYALAM PARMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As matters now stand, as I said, formal sanction of Government will be given only after getting a proper building?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Am I to understand that no dislocation of the Quilon Court will be caused by the establishment of the new court at Mavelikara?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The suggestion of Mr. Krishna Pillai will have to be considered.

The Law's Delays Commissioner recommended a District Court at Mavelikara by shifting the one at Quilon.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Is it not the suggestion that Courts at Quilon, Kottayam and Alleppey should be rearranged?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. M. SIVATANU PILLAI (*Tovala*): Will not Vakils also at Quilon have to move to Mavelikara?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is left to the Vakils to decide.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Until otherwise formally declared, shall we take it that Government have not decided to establish a District Court at Mavelikara?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Government have not given final sanction.

MR. A. THANU PILLAI (*Trivandrum—Rural*): May I know why Government waste their time in looking out for buildings if they have not finally decided to establish the court?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No purpose will be served by sanctioning a court at Mavelikara without finding a proper site and building there.

MR. S. J. NAIR (*Nedumangad*): May I know from the member the cause of the delay in establishing a Munsiff's Court at Nedumangad? (*Laughter.*)

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That matter is being considered.

MR. S. J. NAIR (*Nedumangad*): May I know why, in the matter of recruitment of Munsiffs, members of the Bar are not taken into consideration?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is the High Court which has to make the recommendations in those matters. They will consider the efficiency of each candidate. Government do not take the trouble of finding out the volume of work or the practice of each member of the bar.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. S. J. NAIR (*Nedumangad*): May I know why pleaders are not appointed?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Under the Service Regulations, a Munsiff has to be a B. A., B. L. or a Barrister, I think.

MR. S. J. NAIR (*Nedumangad*): Cannot such rules be amended?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): They can be. But I do not think there was any occasion for the amendment of such rules.

MR. K. P. KRISHNA MENON (*Parur*): Is the transfer of the Parur Court recommended by the Law's Delays Commission?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is too early to say that.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): ബി. എൽ. പാസാകാത്ത ആളുകൾ സെഷൻ ജഡ്ജിയായിരുന്നതായിട്ടറിയാമോ?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot remember.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know from the member which principle the Government prefer distribution of courts in as many stations as possible or concentration of the several courts in the same station?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Distribution is favoured but that does not mean that there will be one court for every *pakuthi*. Government do not at the same time want to concentrate in some centres, nor do they want to distribute the courts too much.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Am I to understand that Government think that justice should be brought to every man's door?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No. The people will have to travel some little distance.

Sir, I was submitting to the House that Government are taking vigorous steps on the recommendations of the Law's Delays Commissioner; but having regard to the number of the recommendations and the volume of the subject, some delay is inevitable.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): May I ask the Law Member whether it is not the Government that appoint District Judges and Additional District Judges as distinguished from the fact that generally Munsiffs are appointed by the High Court?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, but Government generally act on the recommendation of the High Court.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): Do Government delegate to the High Court the power of selecting individuals?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Government will require a recommendation from the High Court ordinarily before they appoint a person as judicial officer.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): My question, Sir, is this. Do Government appraise themselves of the details of the work of the particular individual as a lawyer?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): If an occasion arises, Government will have to do it.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): Will the Government be pleased to require from the High Court a statement of the work done by candidates regarding the number of original cases and appeals in which they appear?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is not done now.

MR. T. K. VELU PILLAI (*Trivandrum—Urban*): Will the Government be pleased to consider that suggestion?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have no objection to consider it.

MR. A. THANU PILLAI (*Trivandrum—Rural*): May I know the principle on which the forty years' rule is rested, if there is any principle?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The High Court say that its principle is that a person recruited directly should be able to serve for a sufficiently long time to earn a pension.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha* I): Does it apply to Sirkar Vakils?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is the reason why it does not apply to Sirkar Vakils. If they have entered service before the age of 40, they will be able to earn a decent pension. Probably other reasons also may be urged in support of the 40 years' rule.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Will a Judge be appointed to the High Court only if he will be in a position to earn a pension?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is no such rule. The rule at present is that the age of a person to be appointed as Second Judge or Additional District Judge should be not more than forty. The reason of the rule that I have given is what the High Court has stated. It has not been recorded like that by the Government. Probably they may have other reasons.

Regarding recruitment, the Government have stated that efficiency should be the main consideration and they have also communicated to the High Court that officers who are slow or inefficient must be punished and that persons who are able to top the list must be rewarded, say, by

LIBRARY ARCHIVES Kerala Legislative Assembly

means of increments, &c. They have also asked the High Court to note individual merit and the work of each officer and to bring to the notice of Government for action the cases of those officers who are not up to the mark. The High Court have not yet brought any officer to the notice of the Government. I have no doubt, however, that the High Court has it in mind and Government will take action whenever necessary. That also will afford one reason to hope that there may be a good out-turn of work in the future.

MR. PADODE A. NARAYANA PILLAI (*Vilavankod*): May I know whether Government propose passing a Bar Councils Act?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The Law's Delays Commissioner has, I believe, made some recommendations about that. But at present Government have not resolved upon the passing of an Act.

About the re-distribution of the jurisdiction of Courts, that point has also been considered. It will be seen from the Budget and some other papers, that certain Munsiff-Magistrates' Courts have been made full-time Munsiffs' Courts. For instance, the Changanachery and Kanjirapally Courts have been made into full-time Munsiffs' Courts. Some more full time Munsiffs' Courts have been created. The matter has now been finally referred to the High Court to say what redistribution they would recommend in view of these. When the recommendations of the High Court are received, Government will pass orders on the matter.

Finally, Sir, I must say that the suggestions of Mr P. K. Narayana Pillai and Mr. Paramesvaran Pillai, who have gone into details, are particularly very valuable because they are speaking, it must be stated, with some inside knowledge of the matter. Their views will be deeply considered by the Government and the High Court. I believe I have satisfied the House on the points raised and I hope Mr. P. K. Narayana Pillai will be pleased to withdraw his motion.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): May I know whether Government will take action on the matters I have mentioned?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkr Vakil*): Yes, Government will consider them all.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): What induced me to send in this motion is the need to rouse the Government to a sense of overdue action in Judicial administration and to make Government realise where the shoe really pinches. I am not particular of securing a victory by pressing the motion. In view of the assurance of my friend on the other side, that he will not allow the policy of drift any longer and that Government will take prompt action on the report of the Law's Delays Commissioner, I withdraw the motion.

The motion was by leave withdrawn.

LIBRARY ARCHIVES Kerala Legislative Assembly

Motions Nos. 327 to 339.

The following motions were not made :

MR. T. K. ALEXANDER ;
327. To reduce the allotment of Rs. 50,046 forlestablishment by Re. 1

MR. R. RAMAN PILLAI ;
328. To reduce the allotment of Rs. 50,046 for establishment by Rs. 5

MR. T. K. ALEXANDAR ;
329. To reduce the allotment of Rs. 2,000 for travelling allowance by Rs. 1

MR. K, M. KURIAKOSE ;
330. To reduced the allotment of Rs. 2.000 for travelling allowance by Rs. 5

MR. R. RAMAN PILLAI
331. To reduce the allotment of Rs. 2,000 for travelling allowance by Rs. 5

MR. T. K. ALEXANDER ;
332. To reduce the allotment of Rs. 70,3 0 for High Court by Re. 1

MR. N. JOHN JOSEPH
333. To reduce the allotment of Rs. 70,300 for High Oourt by Re. 1

MR. M. MAHOMED HANEEF
334. To reduce the allotment of Rs. 10,200 for Second Judges by Re. 1

MR. R. RAMAN PILLAI
335. To reduce the allotment of Rs. 78.091 for Judges courts Establishment by Rs. 768

MR. T. K. ALEXANDER
336. To reduce the allotment of Rs. 21 294 for Village Panchayat Courts Establishment by Re. 1

MR. A. S. DAMODARAN ASAN
337. To reduce the alltment of Rs. 7,43,385 for Civil and Sessions Courts by Re. 1

MR. V. RAMAKRISHNA PANIKKAR
328. To reduce the allotment of Rs. 7r43.385 for Civil and Sessions Courts by Re. 1

MR. A. EASWARA PILLAI (KOTTARAKARA)
339. To reduce the allotment of Rs. 89,533 for Criminal Courts by Rs. 100

Motion No. 340

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I move the following motion :

To reduce the allotment of Rs. 89,538 for Criminal Courts by Rs. 125.

The object of my motion is to bring to the notice of Government the desirability of recruiting Magistrates from among the members of the Bar.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*) : Is this a token motion ?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*) : It is a token motion. I shall make it Rs. 100. Sir, this is a question about which the members of the Bar in the whole of Travancore have been expressing their opinion for a very long time.

LIBRARY ARCHIVES Kerala Legislative Assembly

I know some of the publised reports of the Vakil's Conference held in Trivandrum as well as elswhere show that resolutions were passed by members of the Bar year after year and that one of the reforms to be introduced should be the recruitment of the Magistrates, that is throwing open the place of Magistracy, to the members of the Bar. I am sorry to say that the cry has been a cry in the wilderness so long. The opinion expressed by the members of the Bar has not been seriously considered by Government nor is the policy enunciated at these conferences accepted by Government till now. Again, a few months back I remember, in several of the stations the members of Bar Associations passed resolutions to that effect and those were submitted to Government as well as to the High Court. I am sorry to say neither the Government nor the High Court seem to have taken any action in the matter. Well, Sir, the members of the Bar are in a position to point out to the Government that on account of the present system of recruitment of magistrates, criminal justice suffers to a considerable extent. The method that is now followed namely, sending out senior clerks of the Secretariat does not conduce to the creation of an efficient magistracy. Many of these senior clerks are duly qualified in law but after several years of service in the Secretariat which alone entitle them to be sent out as Magistrates, this really long clerical service, makes them quite out of touch with the working of the laws they have studied. Practically when they come out as Magistrates they are quite raw men for the judiciary and on account of this bad system justice suffers very much. They are not able to cope with the work properly. It takes a long time for these gentlemen to pick up even the ordinary questions of procedure and law. That is a very important matter especially in the adminstration of criminal justice. Very often they commit blunders, in observing the rules of procedure. I do not think I should labour this point very much in this House which is mostly composed of lawyers. I hope all members of this House will give their unanimous opinion in favour of this motion.

MR. S. J. NAIR (*Nedumangad*): I support the motion. The present method of recruitment of persons from the Secretariat, Account Office and Division Cutcherries for Magistrate's posts is not at all conducive to the interest of criminal administration in the State. It is essential that members of the Bar who have practice in the Bar, and Pleaders of long standing are recruited as Magistrates. Recruitment may be given to the Pleaders of the bar in the lower courts as Munsiffs and Magistrates alone with members of the Bar who have B. L. qualification.

Now, it seems that the appointment of Magistrates appears to be practically a training ground for the clerks of the Secretariat and of some other offices, so that, very often they do not administer criminal justice properly. And, after years of training and experience of Magistrates, the trained hands, instead of being retained as Magistrates

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. S. J. Nair.]

on higher salaries and better status if necessary, are promoted as Tahsildars. In these circumstances, I beg to submit that the system of recruiting Magistrates from the Secretariat, Account Office and so forth, is highly objectionable.

PRESIDENT: It is now five o' clock, and the time allotted for the voting of Demands for Grants has elapsed. This and the following motions lapse.

Motions 341-353.

The following motions lapsed—

MR. S. J. NAIR:
341. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1

MR. S. J. NAIR:
342. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1

MR. S. J. NAIR:
343. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1

MR. S. J. NAIR:
344. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Rs. 2

MR. S. J. NAIR:
345. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Rs. 5

MR. S. J. NAIR:
346. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Rs. 10

MR. T. S. JAYANTAN NAMBOODIRI:
347. To reduce the total allotment of Rs. 10,49.355 under Demand XII by Re. 1

MR. T. T. KESAVAN SASTRI:
348. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1

MR. K. M. KRISHNAN;
349. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1

MR. K. P. KRISHNA MENON:
350. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1.

MR. N. E. VARUGHESE:
351. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Rs. 5

MR. S. J. NAIR:
352. To reduce the total allotment of Rs. 10,49,355 under Demand XII by Re. 1

MR. A. THANU PILLAI:
353. To reduce the total allotment of Rs. 10,49,355 by Rs. 2

PRESIDENT: Mr. Kayalam Parameswaran Pillai moved for a grant of Rs. 10,49,355 under Demand XII—Administration of Justice-I put it that the Demand be passed.

The grant was made.

DEMAND XIII.—GENERAL ADMINISTRATION EXCLUDING ACCOUNT OFFICE AND LEGISLATIVE BODIES.

Motions 354 to 380.

The following motions lapsed —

MR. A. S. DAMODARAN ASAN:
354. To reduce the allotment of Rs. 50,374 for salaries by Re. 1

LIBRARY ARCHIVES Kerala Legislative Assembly